

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
SOUTHERN DIVISION  
No. 7:07-CR-86-D  
No. 7:10-CV-177-D

MICHAEL KENTA DAVIS, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 UNITED STATES OF AMERICA, )  
 )  
 Respondent. )  
 )

**ORDER**

On February 8, 2012, the court dismissed Michael Kenta Davis's ("Davis") pro se motion under 28 U.S.C. § 2255 [D.E. 52]. On March 9, 2012, Davis filed a pro se motion to alter the judgment [D.E. 55]. See Fed. R. Civ. P. 59(e). On March 13, 2012, Davis filed a pro se motion for a reduction in his sentence under 18 U.S.C. § 3582(c), relying on Amendments 750 and 759 to the Sentencing Guidelines [D.E. 56]. On June 7, 2013, the government responded in opposition to the motion to alter judgment [D.E. 60].

Davis's motion to alter the judgment is denied. He has failed to meet the governing standard. See, e.g., Zinkland v. Brown, 478 F.3d 634, 637 (4th Cir. 2007); Bogart v. Chapell, 396 F.3d 548, 555 (4th Cir. 2005); Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir. 1998).

Davis's motion for relief under 18 U.S.C. § 3582(c) and Amendments 750 and 759 to the Guidelines is denied. Davis is a career offender. See PSR ¶¶ 16, 25, 26, 30, 55; United States v. Davis, 305 F. App'x 62, 63–64 (4th Cir. 2008) (per curiam) (unpublished). Thus, he is not entitled to relief under 18 U.S.C. § 3582(c) and Amendments 750 and 759 to the Guidelines. See Dillon v.

United States, 130 S. Ct. 2683, 2691 (2010); United States v. Ervin, No. 13-6354, 2013 WL 3616035, at \*1 (4th Cir. July 16, 2013) (per curiam) (unpublished); United States v. Barnes, No. 13-6681, 2013 WL 2996544, at \*1 (4th Cir. June 18, 2013) (per curiam) (unpublished); United States v. Staton, No. 12-8101, 2013 WL 2480216, at \*1 (4th Cir. June 11, 2013) (per curiam) (unpublished); United States v. Lewis, No. 13-6227, 2013 WL 1800396, at \*1 (4th Cir. Apr. 30, 2013) (per curiam) (unpublished); United States v. Rogers, No. 12-4053, 2013 WL 518609, at \*2 (3d Cir. Feb. 13, 2013) (per curiam) (unpublished); United States v. Lawson, 686 F.3d 1317, 1321 (11th Cir. 2012) (per curiam); United States v. Rashaad, No. 3:01cr195, 2012 WL 4758271, at \*2 (W.D.N.C. Oct. 5, 2012) (unpublished), aff'd, 512 F. App'x 294 (4th Cir. 2013) (per curiam) (unpublished); United States v. Quarles, 889 F. Supp. 2d 783, 787–88 (E.D. Va. 2012); see also United States v. Mateo, 560 F.3d 152, 154–55 (3d Cir. 2009); United States v. Anderson, 591 F.3d 789, 791 (5th Cir. 2009) (per curiam); United States v. Broadwater, 613 F. Supp. 2d 740, 742–45 (E.D.N.C. 2009). In light of this conclusion, the court declines the government's invitation to hold Davis's section 3582(c) motion in abeyance. See [D.E. 61].

In sum, Davis's motions [D.E. 55, 56] are DENIED, and the government's motion to extend time [D.E. 62] is DISMISSED AS MOOT. The court DENIES a certificate of appealability as to the motion to alter the judgment. See 28 U.S.C. § 2253(c). The clerk shall close the case.

SO ORDERED. This 30 day of July 2013.

  
JAMES C. DEVER III  
Chief United States District Judge